

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

MEMORANDUM ORDER

Defendant has filed *pro se* a form "Motion Under 28 U.S.C. §2255 to Vacate, Set Aside, or Correct Sentence by a Person in Federal Custody." Pursuant to 28 U.S.C. § 2255(a):

A prisoner in custody **under sentence** of a court established by Act of Congress claiming the right to be released upon the ground that the sentence was imposed in violation of the Constitution or laws of the United States, or that the court was without jurisdiction to impose such sentence, or that the sentence was in excess of the maximum authorized by law, or is otherwise subject to collateral attack, may move the court which imposed the sentence to vacate, set aside or correct the sentence.

Id. (emphasis added). Defendant has not yet been sentenced in this matter. Therefore, he is not “[a] prisoner in custody under sentence of a court established by Act of Congress” who has standing to bring a §2255 motion before this Court.

AND NOW, this 9th day of January, 2013, it is hereby ORDERED, ADJUDGED, AND DECEED that Defendant's *pro se* "Motion Under 28 U.S.C. §2255 to Vacate, Set Aside, or Correct Sentence by a Person in Federal Custody" is DENIED without prejudice.

Maurice B. Cohill, Jr.
Maurice B. Cohill, Jr.
United States District Court Judge